IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

MONDAY, THE 30TH JULY 2007 / 8TH SRAVANA 1929

WP(C).No. 18901 of 2007(A)

PETITIONER:

JOMY JEROME, D/O.MATHEW JEROME,
F-48 BHAGATH SINGH MARKET,
NEW DELHI - 110 001.

BY ADV. SRI.ABRAHAM VAKKANAL
SRI.PAUL ABRAHAM VAKKANAL
SRI.BIJIMON C.CHERIAN
SRI.LOWEL CHERIAN
SMT.K.S.SUMITHA

RESPONDENTS:

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1. THE VICE CHANCELLOR, M.G.UNIVERSITY,
PRIYADARSHINI HILLS, KOTTAYAM.

2. DIRECTOR,
SCHOOL OF DISTANCE EDUCATION,
M.G.UNIVERSITY, PRIYADARSHINI HILLS,
KOTTAYAM.

3. M.G.UNIVERSITY,
REPRESENTED BY ITS REGISTRAR,
ADDRESS FOR SERVICE, PRIYADARSHINI HILLS,
KOTTAYAM.

BY ADV. SRI. T.A. SHAJI, SC FOR M.G.UNIVERSITY

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 30/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX (WP(C) NO.18901 OF 2007)

PETITIONER'S EXHIBITS:

Ext.P1: Copy of the brochure of the Distance Education Programme of R2.

Ext.P2: Copy of the B.El.Ed Certificate of the petitioner dtd.22.2.03.

Ext.P2(a): Copy of the final year mark list of the petitioner pertaining to B.El.Ed. Course dtd.30.5.02.

Ext.P2(b): Copy of the course curriculum of the B.El.Ed. Course studied by the petitioner.

Ext.P3: Copy of the Certificate issued by the Head & Dean, Faculty of Education, Delhi University dtd.1.2.07.

Ext.P4: Copy of the Mark sheet of the petitioner pertaining to 1st Semester M.Sc(Maths) dtd.16.12.04.

Ext.P4(a): Copy of the Mark sheet of the petitioner pertaining to 2nd Semester M.Sc.(maths) dtd.16.12.04.

Ext.P4(b): Copy of the Supplementary Mark sheet of petitioner pertainign to 1st Semester M.Sc.(Maths) dtd.9.12.05.

Ext.P5: Copy of the Mark sheet of the petitioner pertaining to 3rd Semester M.Sc.(Maths) dtd.9.12.05.

Ext.P5(a): Copy of the Mark sheet of the petitioner pertaining to 4th Semester M.Sc(Maths) dtd. 9.12.05.

Ext.P6: Copy of the hall Ticket issued to the petitioner for the final year supplementary exams.

Ext.P7: Copy of the letter addressed to R1.

Ext.P8: Copy of the representation sent by the father of the petitioner to President of India.

Ext.P8(a): Copy of the letter forwarding the representation to R1.

Ext.P9: Copy of the communication dtd.30.4.07 issued by R3.

Ext.P10: Copy of the judgment in W.A.No.1040/03 of this Court dtd.25.11.2004.

Ext.P11: Copy of the judgment in W.A.No.265/03 of this Court dtd.19.6.2003.

Ext.P12: Copy of the judgment in O.P.No.10816/02 of this Court dtd.17.9.2002.

Ext.P13: Copy of the order issued by the Calicut University dtd.27.6.2007.

RESPONDENTS' EXHIBIT:

Annexure-I: Copy of the judgment dtd.30.11.2006 in W.A.No.2240/06 of this Court.

-True Copy-

P.A.to Judge.

S. SIRI JAGAN, J.

WP(C) NO. 18901 OF 2007 - A

Dated this the 30th day of July, 2007

J U D G M E N T

The petitioner obtained the degree of Bachelor of Elementary Education from the Delhi University. She also secured admission to M.Sc.(Maths) course during the years 2003-2005 in the M.G.University on the strength of the said degree as the qualifying examination. She underwent the course, passed 3 Semester examinations of her M.Sc.course and appeared for the Final Semester Examination also. According to the petitioner, she has passed the final semester examination also, but mark list and degree certificate are withheld stating that the degree obtained by the petitioner from the Delhi University is not recognised by the M.G.University.

2. The contention of the University, as evident from the statement filed, is that the degree of Bachelor of Elementary Education obtained by the petitioner from the Delhi University is not a degree recognised by the

M.G.University and therefore, the petitioner's admission to M.Sc.(Maths) on the strength of that degree is irregular, as a result of which the petitioner has become ineligible for the degree certificate and mark list even if the petitioner has passed the examination. The University relies on Annexure-I judgment of a Division Bench of this Court to the effect that if a degree possessed by a person is not recognised by the University on the date of application for admission, the admission cannot be recognised as valid.

3. In answer to the same, in her reply affidavit, the petitioner extracts portions of several judgments of this Court. The same are as follows:-

W.A.No.1040/03

> "Considering the facts and circumstances of the case, we find it unnecessary to consider the legal question. Since the appellant has already completed the course of study and has taken the examination, result will have to be declared. Therefore we accept the plea of the appellant and allow this appeal. Respondents would pass orders regularizing his studies and would declare the results of the

> appellant. Appeal is allowed as above."
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> (emphasis given)

W.A.NO.265/03

> "After hearing learned counsel for the parties, we find that the respondent had been admittedly permitted to appear in the test. Surely, if the authority thought that the respondent was not eligible, it should have declined him permission to take the test. Once he was permitted to appear, there appears to be no justification for the action of the authority in withholding the result."
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> AIR 1976 SC 376 (**Shri Krishnan** v. **Kurukshetra University**)
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> "Once a candidate is allowed to take the examination, rightly or wrongly, then the statute which empowers the University to withdraw the candidature of the applicant has worked itself out and the candidate cannot be refused admission subsequently, for any infirmity which should have been looked into before giving the candidate permission to appear."

On the strength of these decisions, the petitioner submits that the University cannot now take a stand that because of the degree obtained by the petitioner being not

recognised, the petitioner cannot be given the degree.

4. Since the petitioner has already written 4 Semester examinations and the University had no objection in issuing hall tickets to the petitioner for those examinations, it would be totally unjust now to upset the situation by denying the petitioner the benefit of the course undergone by her. In fact, the decisions quoted by the petitioner amply support the above view.

5. In view of the same, I allow this writ petition and direct the respondents to publish the petitioner's results for M.Sc.(Maths) and if she has passed, to issue mark list and degree certificate. This shall be done within a period of two months from the date of receipt of a copy of this judgment.

S. SIRI JAGAN,
Judge

Mbs/

S.SIRI JAGAN, J

W.P.(C) NO. OF 2001

J U D G M E N T

DATED:01-06-2007